

REMARKS/ARGUMENTS

Applicant would like to thank the Examiner for the careful consideration given the present application.

Claims 1-3, 5, 6, 8, 10-13, 15, 16, 18, 20-23 and 26-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tani.

Amended claim 1 requires providing a web page design kit including a tangible background medium, a first tangible object representing a user interface element and a second tangible object representing said or another user interface element. The first and second tangible objects are positioned on the tangible background medium at desired locations to create a desired web page appearance, which is scanned to generate a scanned image. The scanned image is used to format an executable web page having user interface elements positioned in correspondence with the positioning of the first and second tangible objects on the tangible background medium.

Among other things, Tani does not teach a web page design kit including a tangible background medium, a first tangible object representing a user interface element and a second tangible object representing said or another user interface element. Tani teaches that it is conventional for an art design specialist to design a graphical display for a computer program, and then for a program part to be created to give effect to the graphical display designed by the art design specialist (1:35-41). The Examiner correctly characterizes the graphical display designed by the art design specialist as a "picture created by an artist." The Examiner's position, as best understood by the applicant, is that it would be obvious to scan the "picture created by an artist" to create a web page with a user interface element. However, a picture created by an artist does not teach or otherwise render foreseeable a web page design kit including a tangible background medium, a first tangible object representing a user interface element and a second

tangible object representing said or another user interface element, wherein the tangible objects are positioned on the tangible background medium to create a desired web page appearance (as required by claim 1). A picture is clearly not a kit having three separate elements (i.e., a tangible background medium and first and second tangible objects) as recited in claim 1. For at least this reason, applicant submits that Tani does not teach all of the limitations of claim 1.

At page 5 of the Office action, the Examiner equates a scanner with a tangible background and the physical picture prepared by the art design specialist with a tangible object. Amended claim 1 requires that the tangible background medium be provided to a scanner subsequent to positioning the first and second tangible objects on the tangible background medium. Clearly, the tangible background medium of claim 1 is structure that is separate from the scanner. Applicant submits that Tani does not teach or otherwise render foreseeable positioning a first tangible object representing a user interface element and a second tangible object representing said or another user interface element on a tangible background medium at respective desired locations and subsequently providing the tangible background medium to a scanner (as required by claim 1).

In view of the differences between the subject matter of claim 1 and the teaching of Tani, applicant submits that claim 1 is allowable over Tani. Claims 2, 3, 5, 6, 8 and 10 depend from claim 1.

Amended claim 11 recites optical scanning of a web page design kit including a tangible background medium and first and second tangible objects positioned at respective desired locations on the tangible background medium to create a desired appearance of the web page. For the reasons discussed above with respect to claim 1, Tani does not teach or otherwise render foreseeable a web page design kit as required by claim 11. In view of the differences between

the subject matter of claim 11 and the teaching of Tani, applicant submits that claims 11 is allowable over Tani. Claims 12, 13, 15, 16, 18 and 20 depend from claim 11.

Amended claim 21 recites a web page design kit including a tangible background medium, a first tangible object representing a user interface element and a second tangible object representing said or another user interface element. For the reasons discussed above with respect to claim 1, Tani does not teach or otherwise render foreseeable a web page design kit as required by claim 21. In view of the differences between the subject matter of claim 21 and the teaching of Tani, applicant submits that claim 21 is allowable over Tani. Claims 22, 23, 26 and 28 depend from claim 21.

Further, regarding claims 10, 20 and 28, the Office action admits that Tani fails to teach that a tangible object is selected from a group consisting of a sticker, a magnetic object, and a removable plastic object which is subject to electrostatic forces. The Office action then makes a conclusory statement that it would be obvious to draw a picture on any of a sticker, a magnetic object and a removable plastic object which is subject to electrostatic forces. Applicant traverses the conclusory statement regarding obviousness. Applicant demands that the Examiner produce some authority showing that it would be obvious for an art design specialist to draw a picture on a sticker, a magnetic object, or a removable plastic object which is subject to electrostatic forces, for use in creating user interface elements for a web page. Rejections based on obviousness cannot be sustained on mere conclusory statements, as provided in the Office action. The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reasons why the claimed invention would have been obvious. See, e.g., MPEP § 2143. For the reasons discussed above, applicant submits that the Office action has not established a *prima facie* case for obviousness with respect to claims 10, 20 and 28.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. ACER-44976US1.

Respectfully submitted,
PEARNE & GORDON, LLP

By: 
Brad C. Spencer – Reg. No. 57,076

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: March 27, 2009